

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1001(ss) be amended to read as follows:

- 1 Page 202, between lines 1 and 2, begin a new paragraph and insert:
- 2 "SECTION 216. IC 6-3.5-9 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]:
- 5 **Chapter 9. Local Option Sales Tax for Property Tax**
- 6 **Replacement**
- 7 **Sec. 1. This chapter applies to a county having a population of**
- 8 **more than four hundred thousand (400,000) but less than seven**
- 9 **hundred thousand (700,000).**
- 10 **Sec. 2. Except as otherwise provided in this chapter, the**
- 11 **definitions contained in IC 6-2.5-1 apply throughout this chapter.**
- 12 **Sec. 3. As used in this chapter, "civil taxing unit" means an**
- 13 **entity having the power to impose ad valorem property taxes. In**
- 14 **the case of a consolidated city, the term includes the consolidated**
- 15 **city and all special taxing districts, all special service districts, and**
- 16 **all other entities of the consolidated city with budgets and property**
- 17 **tax levies that are subject to review under IC 36-3-6-9.**
- 18 **Sec. 4. As used in this chapter, "county fiscal body" means a**
- 19 **county council under IC 36-2-3 or a city-county council under**
- 20 **IC 36-3-4.**
- 21 **Sec. 5. (a) Using procedures described in this chapter, a county**
- 22 **fiscal body may, by majority vote, adopt an ordinance to impose or**
- 23 **rescind the local option gross retail tax for property tax**

1 replacement in the county.

2 (b) Before a county fiscal body may adopt an ordinance to  
3 impose or rescind a tax under this chapter, the county fiscal body  
4 must hold a public hearing on the proposed ordinance. The county  
5 fiscal body must provide notice in accordance with IC 5-3-1 to the  
6 public of the time and place that the public hearing will be held.

7 Sec. 6. (a) The county fiscal body may impose a local option  
8 gross retail tax on the transactions described in section 7 of this  
9 chapter. A county fiscal body adopting an ordinance under this  
10 section must indicate in the ordinance the date the tax becomes  
11 effective.

12 (b) A tax imposed under this chapter may not take effect until  
13 at least sixty (60) days after the date the ordinance imposing the  
14 tax is adopted.

15 Sec. 7. (a) Except as provided in section 8 of this chapter, the tax  
16 imposed under this chapter by a county fiscal body applies to retail  
17 transactions that occur within the county.

18 (b) Retail transactions that are services described in  
19 IC 6-2.5-4-5, IC 6-2.5-4-6, and IC 6-2.5-4-11 are considered as  
20 having occurred within the county in which the services are  
21 provided.

22 Sec. 8. (a) A tax imposed under this chapter does not apply to a  
23 transaction to the extent that the transaction is exempt from the  
24 state gross retail tax under IC 6-2.5.

25 (b) A tax imposed under this chapter does not apply to the gross  
26 retail income derived from a unitary retail transaction to the extent  
27 the gross retail income is attributable to a tax under IC 6-2.5 or  
28 IC 6-9.

29 Sec. 9. A county fiscal body that has imposed a tax under this  
30 chapter may adopt an ordinance to rescind the tax. The county  
31 fiscal body must specify in the ordinance the date the rescission of  
32 the tax takes effect.

33 Sec. 10. If a county fiscal body adopts an ordinance to impose or  
34 rescind a tax under this chapter, the county fiscal body shall  
35 immediately send a certified copy of the ordinance to the  
36 department of state revenue.

37 Sec. 11. (a) A tax imposed under this chapter may be imposed  
38 only on the gross retail income derived from retail transactions. If  
39 the tax imposed under this chapter for a particular transaction  
40 results in a fraction of one-half cent (\$0.005) or more, the amount  
41 of the tax shall be rounded to the next additional cent.

42 (b) A county fiscal body may adopt a tax under this chapter that  
43 equals any of the following rates:

- 44 (1) Twenty-five hundredths of one percent (0.25%).
- 45 (2) Five-tenths of one percent (0.5%).
- 46 (3) Seventy-five hundredths of one percent (0.75%).
- 47 (4) One percent (1%).

1 (c) A county fiscal body shall give notice of an action under this  
2 chapter to the department of local government finance not more  
3 than five (5) business days after adopting an ordinance under this  
4 chapter.

5 Sec. 12. (a) A person who receives goods or services in a retail  
6 transaction that is taxed under this chapter is liable for the tax.  
7 The person shall pay the tax to the retail merchant as a separate  
8 amount added to the consideration for the goods or services. The  
9 retail merchant shall collect the tax as an agent for the state and  
10 the county.

11 (b) The county fiscal body may adopt an ordinance to require  
12 that the tax be reported on forms approved by the county treasurer  
13 and that the tax shall be paid monthly to the county treasurer. If  
14 the county fiscal body does not adopt such an ordinance, the tax  
15 imposed under this chapter shall be imposed, paid, and collected in  
16 the same manner in which the state gross retail tax is imposed,  
17 paid, and collected under IC 6-2.5.

18 (c) The department of state revenue shall determine whether a  
19 return that is filed for the payment of the tax imposed under this  
20 chapter shall be a separate return or shall be combined with the  
21 return filed for the payment of the state gross retail tax.

22 Sec. 13. (a) A special account within the state general fund shall  
23 be established for each county adopting the property tax  
24 replacement sales tax. Any revenue derived from the imposition of  
25 the property tax replacement gross retail tax by a county shall be  
26 deposited in that county's account in the state general fund.

27 (b) Income earned on money held in an account under  
28 subsection (a) becomes a part of that account.

29 (c) Revenue remaining in an account established under  
30 subsection (a) at the end of a fiscal year does not revert to the state  
31 general fund.

32 Sec. 14. (a) Revenue derived from the imposition of the property  
33 tax replacement gross retail tax shall, in the manner prescribed by  
34 this section, be distributed to the county that imposed it. The  
35 amount to be distributed to a county during an ensuing calendar  
36 year equals the amount of property tax replacement sales tax  
37 revenue that the department of state revenue, after reviewing the  
38 recommendation of the budget agency, estimates will be received  
39 from that county during the twelve (12) month period beginning  
40 July 1 of the immediately preceding year and ending June 30 of the  
41 following year.

42 (b) Before the later of July 2 of each year or sixty (60) days after  
43 an ordinance to impose a tax under this chapter is adopted, the  
44 department of state revenue, after reviewing the recommendation  
45 of the budget agency, shall estimate and certify to the county  
46 auditor of each adopting county the amount of property tax  
47 replacement gross retail tax revenue that will be collected from

1 that county during the twelve (12) month period beginning July 1  
 2 of that year and ending June 30 of the immediately following year.  
 3 The amount certified is the county's certified distribution for the  
 4 immediately following year. The amount certified may be adjusted  
 5 under subsection (c) or (d).

6 (c) The department of state revenue may certify to an adopting  
 7 county an amount that is more than the estimated twelve (12)  
 8 month revenue collection if the department of state revenue, after  
 9 reviewing the recommendation of the budget agency, determines  
 10 that there will be more revenue available for distribution from the  
 11 county's account established under section 13 of this chapter.

12 (d) The department of state revenue may certify an amount less  
 13 than the estimated twelve (12) month revenue collection if the  
 14 department of state revenue, after reviewing the recommendation  
 15 of the budget agency, determines that a part of those collections  
 16 must be distributed during the current year to enable the county  
 17 to receive its full certified distribution for the current year.

18 **Sec. 15. (a) One-half (1/2) of each county's certified distribution**  
 19 **for a year shall be distributed from its account established under**  
 20 **section 13 of this chapter to the county treasurer on May 1 and the**  
 21 **other one-half (1/2) on November 1 of that year.**

22 (b) Distributions made to a county treasurer under subsection  
 23 (a) shall be treated as though they were property taxes that were  
 24 due and payable during that same year. The certified distribution  
 25 shall be distributed and used by the counties as provided in this  
 26 chapter.

27 (c) All distributions from an account established under section  
 28 13 of this chapter must be made by warrants issued by the auditor  
 29 of state to the treasurer of state ordering the appropriate  
 30 payments.

31 **Sec. 16. The certified distribution received by a county treasurer**  
 32 **under this chapter shall be allocated, distributed, and used by the**  
 33 **civil taxing units of the county as property tax replacement credits**  
 34 **as provided under sections 17, 18, and 19 of this chapter.**

35 **Sec. 17. (a) The county's certified distribution for a calendar**  
 36 **year that is to be used as property tax replacement credits shall be**  
 37 **allocated by the county auditor among the civil taxing units of the**  
 38 **county.**

39 (b) Except as provided in section 18 of this chapter, the amount  
 40 of property tax replacement credits that each civil taxing unit in a  
 41 county is entitled to receive during a calendar year is the result  
 42 determined under STEP FIVE of the following formula:

43 **STEP ONE: Determine that part of the county's certified**  
 44 **distribution that is dedicated to providing property tax**  
 45 **replacement credits for that same calendar year.**

46 **STEP TWO: Determine the sum of the following:**

47 (A) The total property taxes collected by each civil taxing

1 unit during the calendar year immediately preceding the  
2 calendar year in which the distribution is to be made.

3 (B) The amount of federal revenue sharing funds and  
4 certified shares received under IC 6-3.5-1.1 or homestead  
5 credits received under IC 6-3.5-6 by each civil taxing unit  
6 during the calendar year immediately preceding the year  
7 in which the distribution is to be made to the extent that  
8 the receipts are used to reduce the civil taxing unit's  
9 property tax levy below the limit imposed by IC 6-1.1-18.5  
10 or another law for that same calendar year.

11 **STEP THREE: Determine the sum of the following:**

12 (A) The total property taxes collected by all civil taxing  
13 units in the county in the calendar year immediately  
14 preceding the calendar year in which the distribution is to  
15 be made.

16 (B) The amount of federal revenue sharing funds and  
17 certified shares received under IC 6-3.5-1.1 or homestead  
18 credits received under IC 6-3.5-6 by all civil taxing units in  
19 the county during that calendar year to the extent that the  
20 receipts are used to reduce the county's property tax levy  
21 below the limit imposed by IC 6-1.1-18.5 or another law  
22 for that same calendar year.

23 **STEP FOUR: Divide the STEP TWO sum by the STEP  
24 THREE sum.**

25 **STEP FIVE: Multiply the STEP ONE amount by the STEP  
26 FOUR quotient.**

27 (c) The department of local government finance shall provide  
28 each county auditor with the amount of property tax replacement  
29 credits that each civil taxing unit in the auditor's county is entitled  
30 to receive. The county auditor shall then certify to each civil taxing  
31 unit the amount of property tax replacement credits it is entitled to  
32 receive during that year. The county auditor shall also certify these  
33 distributions to the county treasurer.

34 **Sec. 18. (a) This section applies to a civil taxing unit that:**

35 (1) imposes a property tax that is first due and payable in a  
36 year in which a distribution is made under this chapter; and  
37 (2) did not impose a property tax that was first due and  
38 payable in the year that immediately precedes the year in  
39 which the distribution is made.

40 (b) A civil taxing unit is entitled to receive part of the property  
41 tax replacement credits to be distributed within the county. The  
42 amount that the civil taxing unit is entitled to receive during that  
43 year is the result determined under STEP FIVE of the following  
44 formula:

45 **STEP ONE: Determine the part of the county's certified  
46 distribution that is to be used to provide property tax  
47 replacement credits during that year.**

1           **STEP TWO: Determine the budget of the civil taxing unit for**  
2           **that year.**

3           **STEP THREE: Determine the aggregate budgets of all civil**  
4           **taxing units of that county for that year.**

5           **STEP FOUR: Divide the STEP TWO amount by the STEP**  
6           **THREE amount.**

7           **STEP FIVE: Multiply the STEP ONE amount by the STEP**  
8           **FOUR quotient.**

9           (c) If for a year a civil taxing unit is allocated a proportion of a  
10          county's property tax replacement credits by this section, the  
11          formula used in section 17 of this chapter to determine all other  
12          civil taxing units' property tax replacement credits shall be  
13          changed for that same year by reducing the amount dedicated to  
14          providing property tax replacement credits by the amount of  
15          property tax replacement credits allocated under this section for  
16          that same year. The department of local government finance shall  
17          make any adjustments required by this section and provide them  
18          to the appropriate county auditors.

19          Sec. 19. (a) In determining the amount of property tax  
20          replacement credits civil taxing units in a county are entitled to  
21          receive during a year, the department of local government finance  
22          shall consider only property taxes imposed on tangible property  
23          that was assessed in that county.

24          (b) If a civil taxing unit is located in more than one (1) county  
25          and receives property tax replacement credits from one (1) or more  
26          of the counties, the property tax replacement credits received from  
27          each county shall be used only to reduce the property tax rates that  
28          are imposed within the county that distributed the property tax  
29          replacement credits.

30          (c) A civil taxing unit shall treat any property tax replacement  
31          credits that it receives or is to receive during a particular year as  
32          a part of its property tax levy for that same year for purposes of  
33          fixing its budget and for purposes of IC 6-1.1-18.5, IC 6-1.1-18.6,  
34          IC 6-1.1-19, and any other statute imposing a property tax levy  
35          limit."

36          Renumber all SECTIONS consecutively.

(Reference is to HB 1001(ss) as printed June 3, 2002.)

---

Representative Bauer